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Approved:

*Michael R. Herman*

MICHAEL R. HERMAN

Assistant United States Attorney

Before: THE HONORABLE STEWART D. AARON  
United States Magistrate Judge  
Southern District of New York

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	:	
UNITED STATES OF AMERICA	:	<b><u>SEALED COMPLAINT</u></b>
	:	
- v. -	:	Violation of 8 U.S.C.
	:	§§ 1326(a) & (b)(2)
NICOLAS ROSARIO,	:	
a/k/a "Nicolas Marte,"	:	
	:	COUNTY OF OFFENSE:
Defendant.	:	NEW YORK
	:	
- - -	X	

SOUTHERN DISTRICT OF NEW YORK, ss.:

BRIAN FIGUEIREDO, being duly sworn, deposes and says that he is a Deportation Officer with the U.S. Department of Homeland Security, Immigration and Customs Enforcement, and charges as follows:

**COUNT ONE**  
**(Illegal Reentry)**

1. From at least on or about April 1, 2019, in the Southern District of New York and elsewhere, NICOLAS ROSARIO, a/k/a "Nicolas Marte," the defendant, being an alien, unlawfully did enter and was found in the United States, after having been removed from the United States subsequent to a conviction for the commission of an aggravated felony, without having obtained the express consent of the Attorney General of the United States or his successor, the Secretary for the Department of Homeland Security, to reapply for admission.

(Title 8, United States Code, Sections 1326(a) and (b)(2).)

The bases for my knowledge and the foregoing charge are, in part, as follows:

2. I am a Deportation Officer with the U.S. Department of Homeland Security, Immigration and Customs Enforcement ("ICE"), and I have been personally involved in the investigation of this matter. This affidavit is based in part upon my conversations with law enforcement agents and others, and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

3. Based on my review of public court records and records maintained by ICE regarding NICOLAS ROSARIO, a/k/a "Nicolas Marte," the defendant, I have learned, among other things, the following:

a. ROSARIO is a native and citizen of the Dominican Republic. ROSARIO is not and has never been a citizen of the United States.

b. On or about March 13, 1991, ROSARIO was convicted in the United States District Court for the Southern District of New York, following a jury trial, of conspiracy to distribute over 500 grams of cocaine in violation of Title 21, U.S. Code, Section 846. On or about May 24, 1991, ROSARIO was sentenced to 60 months' imprisonment.

c. In connection with the criminal proceedings in the Southern District of New York, described above, ROSARIO's fingerprints were taken and have since been maintained in law enforcement records.

d. On or about August 22, 2006, ROSARIO was removed from the United States to the Dominican Republic. On or about that date, in connection with his removal, ROSARIO's fingerprints were taken by U.S. Border Patrol ("USBP"). ROSARIO's fingerprints taken on or about that date have since been maintained in law enforcement records.

4. Based on my conversations with law enforcement agents, I have learned that in or around February 2019, an individual reported on the ICE Homeland Security Investigations ("HSI") Tip Line (the "Tip Line") that ROSARIO was unlawfully present in the United States and lived at an address in upper Manhattan.

5. On or about April 1, 2019, I observed an individual fitting the description of NICOLAS ROSARIO, a/k/a "Nicolas Marte," the defendant, in Manhattan in the vicinity of the address reported on the Tip Line. The individual identified himself as ROSARIO in response to a series of pedigree questions. ROSARIO was thereafter arrested and taken into ICE custody. In connection with his arrest, ROSARIO's fingerprints were taken by ICE. ROSARIO's fingerprints taken on or about that date have since been maintained in law enforcement records.

6. Based on my review of electronically-maintained fingerprint records, the fingerprints taken of NICOLAS ROSARIO, a/k/a "Nicolas Marte," the defendant, taken in connection with the criminal proceedings in the Southern District of New York, described above, match the fingerprints taken from ROSARIO by USBP on or about August 22, 2006, and the fingerprints taken from ROSARIO by ICE on or about April 1, 2019.

7. Based on my review of records maintained by ICE and my involvement in this investigation, I have learned that ICE has performed searches of all ICE indices and confirmed that, following his removal to the Dominican Republic, NICOLAS ROSARIO, a/k/a "Nicolas Marte," the defendant, never obtained the express consent of the Attorney General of the United States or the Secretary for the Department of Homeland Security to reapply for admission to the United States.

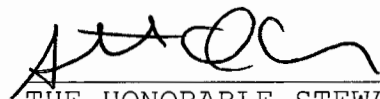
8. Based upon my training and experience with ICE, I understand that ROSARIO's 1991 conviction qualifies as an "aggravated felony" within the meaning of Section 1326(b)(2) of Title 8 of the United States Code.

WHEREFORE the deponent requests that a warrant be issued for the arrest of NICOLAS ROSARIO, a/k/a "Nicolas Marte," the defendant, and that he be arrested, and imprisoned or bailed, as the case may be.



BRIAN FIGUEIREDO  
Deportation Officer  
Immigration and Customs Enforcement  
U.S. Department of Homeland Security

Sworn to before me this  
9th day of April 2019



THE HONORABLE STEWART D. AARON  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK